

REMARKS/ARGUMENTS

This is an Amendment to the Final Office Action mailed February 5, 2007, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire May 5, 2007. Thirty-five (35) claims, including fifteen (15) independent claims, were paid for in the application. Claims 2, 4-8, 11, and 15-18 were canceled and claims 27-35 were withdrawn by the Applicants in their November 20, 2006, response to the Office Action/Restriction Requirement of August 18, 2006. Claims 14 and 22-25 are amended and claims 10, 12, 19-21, and 27-35 are canceled. No new matter has been added to the application. No fee for additional claims is due by way of this Amendment. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Upon entry of the amendments herewith, claims 1, 3, 9, 13-14, and 22-26 remain pending.

1. Acknowledgement of Allowed Claims and Subject Matter

Applicants thank the Examiner for allowing claims 1, 3, 9, and 13 and for indicating the allowable subject matter of claims 14, 22, 23, and 26. Applicants have amended claims 14, 22, and 23 into independent claim format to include all of the limitations of their respective base claim and any intervening claims.

More specifically, claim 14 is amended into independent claim format by including all of the limitations of its base claim 10 and intervening claim 12. Accordingly, claim 14 is in condition for immediate allowance.

Claim 22 is amended into independent claim format by including all of the limitations of its base claim 19 and intervening claim 20. Accordingly, claim 22 is in condition for immediate allowance. Claim 26 is allowable because it depends upon claim 22.

Claim 23 is amended into independent claim format by including all of the limitations of its base claim 21. Accordingly, claim 23 is in condition for immediate allowance.

Applicants have accepted the allowed claims, have modified the allowable claims into independent form, and have canceled rejected independent claims in a sincere effort to place

the case in condition for immediate allowance. Accordingly, Applicants respectfully request entry after final of the amendments herein.

Since claims 22 and 23 were allowable in the present Office Action, Applicants wish to confirm that the amendments to claims 22 and 23 are made for purposes of placing the claims in independent form, and not in response to any rejections made based on cited art. Because a dependent claim as a matter of law inherently contains all of the limitations of its respective independent claim, and any intervening claims, the amendments to claims 22 and 23 do not additionally narrow the scope of claims 22 and 23 in any manner. The amendments to claims 22 and 23, now in independent claim format, merely add the text of limitations inherently included in claims 22 and 23 as originally filed. Indeed, Applicants submit that no substantive limitations have been added to the amended claims 22 and 23. Therefore, no prosecution history estoppel should arise from these amendments

2. Rejections Under 35 U.S.C. § 102(b)

In the Office Action, at paragraph 6, claims 21 and 25 stand rejected under 35 U.S.C. § 102(b) as allegedly fully anticipated by *Takeuchi* (JP 09-231569), hereinafter *Takeuchi*. At paragraph 7, claims 10, 12, 19-21, and 24-25 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Takeuchi* in view of either *Oyake et al.* (U.S. Publication 2002/0160312), or *Oyake et al.* (WO 02/069336). At paragraph 8, claims 10, 12, 19-21, and 24-25 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Takeuchi* in view of either *Mizuta* (JP 04-263140) or *Sato et al.* (U.S. Patent 5,939,510).

Applicants respectfully traverse the maintained rejection of claims 10, 12, 19-21, and 24-25 made in the Final Office Action mailed February 5, 2007, for at least the reasons presented in the Applicants' Response to the Office Action mailed August 18, 2006, which is incorporated herein by reference. However, to advance prosecution of the instant application, claims 10, 12, and 19-21 are canceled without prejudice, waiver, or disclaimer. Therefore, the rejections to these claims are rendered moot. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled

claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public

Additionally, claim 24 is amended to depend upon allowable claim 22 and claim 25 is amended to depend upon allowable claim 23. Because independent claims 22 and 23 are allowable over the cited art of record, dependent claims 24 and 25 are allowable as a matter of law for at least the reason that the dependent claims 24 and 25 contain at least all of the features/elements of their respective independent base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, claims 24 and 25 are in condition for immediate allowance without further search or consideration on the part of the Examiner because claims 24 and 25 now depend upon an allowed independent claim. Accordingly, Applicants respectfully request entry after final of the amendments to claims 24 and 25 herein.

3. Restricted Requirement to Claims 27-35

In the Office Action, claims 27-35 were withdrawn as being drawn to a non-elected inventions of Groups II-IV. Claims 27-35 are canceled without prejudice, waiver, or disclaimer. Applicants' canceling of claims 27-35 is not made in response to rejections or objections raised by the Examiner, nor are claims 27-35 canceled to overcome prior art. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of the allowable claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims 27-35 in a continuing application, if Applicants so choose, and do not intend to dedicate any of the canceled subject matter to the public.

4. Obviousness-Type Double Patenting Rejections

The Office Action has rejected claims 10, 12, 19-21, and 24-25 under the judicially-created doctrine of obviousness-type double patenting as being obvious over copending U.S. Patent Application Nos. 10/495,746 (U.S. 2005/0006336) filed by *Takahata et al.*, in view of *Takeuchi*; 10/493,301 (U.S. 2004/0259039) filed by *Oyake et al.*, in view of *Takeuchi*; 10/500,816 (U.S. 2005/0039621) filed by *Oyake et al.*, in view of *Takeuchi*;

10/500,719 (U.S. 2005/0042427) filed by *Oyake et al.*, in view of *Takeuchi*; 10/500,008 (U.S. 2005/0066825) filed by *Oyake et al.*, in view of *Takeuchi*; 10/500,893 (U.S. 2005/0118534) filed by *Oyake et al.*, in view of *Takeuchi*; and 10/515,404 (U.S. 2005/0232130) filed by *Oyake et al.*, in view of *Takeuchi*.

a. Provisional Rejections Based Upon Applications Pending Before the USPTO

As noted above, claims 10, 12, 19-21, and 24-25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the following applications currently pending before the U.S. Patent and Trademark Office (USPTO) according to the Patent Information and Retrieval (PAIR) database:

10/495,746 (U.S. Publication 2005/0006336)
10/493,301 (U.S. Publication 2004/0259039)
10/500,008 (U.S. Publication 2005/0066825)
10/500,893 (U.S. Publication 2005/0118534)
10/515,404 (U.S. Publication 2005/0232130)

Because the pending claims of the present application are now in condition for immediate allowance, and because prosecution of the above-identified applications remains open, Applicants respectfully request that the provisional obviousness-type double patenting rejections based upon the above-identified co-pending applications be withdrawn and that the pending claims be issued to patent.

The Examiner is requested to telephone the undersigned attorney if any of the above-identified co-pending applications have issued prior to the present application so that the Applicants may file a terminal disclaimer, if appropriate, or respond to the properness of a rejection of the claims of the pending application with respect to any issued claims of the co-pending applications, in order to expedite prosecution of the present application. Applicants are prepared to file a terminal disclaimer should any one of the co-pending applications issue as a patent and if the subject matter of the claims of such issuing patents is properly subject to an obviousness-type double patenting rejection.

b. Provisional Rejections Based Upon Abandoned Applications

As noted above, claims 10, 12, 19-21, and 24-25 are provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over the following abandoned application (according to the PAIR database):

10/500,719 (U.S. Publication 2005/0042427)

Since the above-identified application is abandoned, the Applicants respectfully request that the provisional obviousness-type double patenting rejection based upon the above-identified abandoned application be withdrawn and that the pending claims be issued to patent.

c. Provisional Rejections Based Upon Applications With Paid Issue Fees

As noted above, claims 10, 12, 19-21, and 24-25 are provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of the co-pending application 10/500,816 (U.S. Publication 2005/0039621, hereinafter the '816 Application), in view of *Takeuchi* (JP 09-231569), hereinafter *Takeuchi*. According to the PAIR database, the issue fee has been paid for the '816 Application.

With respect to claims 10, 12, and 19-21, the obviousness-type double patenting rejection should be withdrawn since these claims have been canceled. Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection with respect to claims 10, 12, and 19-21.

With respect to claims 24-25, claim 24 is amended to depend upon allowable claim 22 and claim 25 is amended to depend upon allowable claim 23. Because independent claims 22 and 23 are not rejected under an obviousness-type double patenting rejection based upon the '816 Application in view of *Takeuchi*, dependent claims 24 and 25 are no longer properly rejectable under the above-described double patenting rejection. Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection to claims 24-25.


5. Information Disclosure Statement Basis of Relevance

The Information Disclosure Statements were provided because of the Examiner's seven-way obviousness-type double patenting rejections, with which Applicants do not agree with and believe is improper. However, if the Examiner of the present application believes that the claims of the related cases are sufficiently similar to warrant a double patenting rejection, the art from the related co-pending applications might be considered relevant by the Examiner. Accordingly, the art of record in the above-identified co-pending applications were disclosed out of an abundance of caution. This is the reason for the submission and the basis of relevance provided by Applicants.

6. Conclusion

Applicants thank the Examiner for allowing claims 1, 3, 9, and 13, and for indicating the allowable subject matter of claims 14, 22, 23, and 26. In light of the above amendments and remarks, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that all pending claims 1, 3, 9-10, 12-14, and 19-35 are allowable. Applicants, therefore, respectfully request that the Examiner reconsider this application and timely allow all pending claims. The Examiner is encouraged to contact Mr. Armentrout by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, he is further encouraged to contact Mr. Armentrout by telephone to expediently correct such informalities.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC



Raymond W. Armentrout
Registration No. 45,866

RWA:jr
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
Phone: (206) 622-4900
Fax: (206) 682-6031
890050.503USPC / 907378_1.DOC